

State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

841S0700

HOUSE BILL NO. 1223

Introduced by: Representative Hickey and Senator Cutler

1 FOR AN ACT ENTITLED, An Act to revise licensure fees for, and to prohibit certain
2 harassment practices by, persons engaging in the business of payday loans and title loans.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 54-4-40 be amended to read as follows:

5 54-4-40. Any person who engages in the business of lending money shall apply for a license
6 as prescribed by this chapter. The applicant shall apply for a license under oath on forms
7 supplied by the division. The application shall contain the name of the applicant's business,
8 proof of surety bond, address of the business, the names and addresses of the partners, members,
9 officers, directors, or trustees, and other information the director may consider necessary. ~~The~~
10 Any applicant, other than an applicant engaging in the business of payday loans or title loans,
11 shall pay an original license fee as set by rules of the commission promulgated pursuant to
12 chapter 1-26 not to exceed one thousand dollars. Any applicant engaging in the business of
13 payday loans or title loans shall pay an original license fee of five thousand dollars. If the
14 application of an existing licensee is for an additional location, the application need only include
15 the location and identity of the location manager, plus any changes from the existing license,



1 or such other information the director may consider necessary. The State of South Dakota, any
2 political subdivision of the state, and any quasi-governmental organization created by an
3 executive order of the State of South Dakota and any subsidiary of such organization; any
4 nonprofit corporation formed pursuant to chapter 47-22; any nonprofit United States Treasury
5 Community Development Financial Institution, Small Business Administration Certified
6 Development Company, or Regional Revolving Loan Fund; or any commercial club, chamber
7 of commerce, or industrial development corporation formed pursuant to § 9-12-11 or 9-27-37
8 is subject to this chapter but exempt from initial license fees, renewal fees, and surety bond
9 requirements under this chapter.

10 Section 2. That § 54-4-45 be amended to read as follows:

11 54-4-45. A license expires on July first. To renew a license, the licensee shall file for
12 renewal by June fifteenth. The renewal application for each licensee other than a licensee
13 engaged in the business of payday loans or title loans shall include a renewal fee not to exceed
14 one thousand dollars, as set by rules of the commission promulgated pursuant to chapter 1-26,
15 proof of surety bond, and any other information as required by the director, by rule or order. The
16 renewal application for each licensee engaged in the business of payday loans or title loans shall
17 include a renewal fee of five thousand dollars, proof of surety, and any other information as
18 required by the director, by rule or order. Any licensee that files for renewal after June fifteenth
19 and before July first shall pay a late fee in addition to the renewal fee. The late fee, not to exceed
20 twenty-five percent of the renewal fee, shall be established by the commission in rules
21 promulgated pursuant to chapter 1-26. After June thirtieth no license may be issued unless an
22 application is filed pursuant to § 54-4-40.

23 Section 3. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 No person engaging in the business of payday loans or title loans may engage in any conduct
2 the natural consequence of which is to harass, oppress, or abuse any person in connection with
3 the collection of a debt. Such conduct includes:

- 4 (1) The use or threat of use of violence or other criminal means to harm the physical
5 person, reputation, or property of any person;
- 6 (2) The use of obscene or profane language or language the natural consequence of
7 which is to abuse the hearer or reader;
- 8 (3) The publication of a list of consumers who allegedly refuse to pay debts, except to
9 a consumer reporting agency;
- 10 (4) The advertisement for sale of any debt to coerce payment of the debt;
- 11 (5) Causing a telephone to ring or engaging any person in telephone conversation
12 repeatedly or continuously with intent to annoy, abuse, or harass any person at the
13 called number;
- 14 (6) The placement of telephone calls without meaningful disclosure of the caller's
15 identity.